## Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of	)
	)
UNIVERSAL CABLE	)
COMMUNICATIONS, INC.	)
	)
Temporary Waiver of Section 101.701(c)	)
for Station WPNB813 Thomas Oklahoma	í

## **ORDER**

Adopted: February 1, 2000 Released: February 3, 2000

By the Chief, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau:

- 1. On November 25, 1998, Universal Cable Communications, Inc., (Universal) filed a request for an extension of a temporary waiver of Section 101.701(c) of the Commission's Rules, which requires that at least fifty percent of the customers on a common carrier microwave system used primarily to relay broadcast television signals not be affiliated with the licensee, and that the usage by such customers constitute at least fifty percent of the licensee's service (the 50-50 affiliation requirement). For the reasons set forth below, we dismiss the request.
- 2. On April 2, 1996, Universal filed an application for a new point-to-point microwave station in Thomas, Oklahoma and requested a waiver of the 50-50 affiliation requirement until February 1, 2001, to match the waiver granted for its existing stations.<sup>3</sup> On July 24, 1996, Universal's license to operate Station WPNB813 was granted, but with a special condition granting relief from the Commission's 50-50 affiliation requirement for *eight* months. The condition provided that after eight months from the date of the grant of authorization, at least fifty percent of the customers served by Station WPNB813 would have to be unaffiliated with the licensee or the authorization would have to be surrendered for cancellation. Universal's Request seeks that we extend the waiver until February 1, 2001, to enable it to come into compliance with the 50-50 affiliation requirement or to make other arrangements.<sup>4</sup>
  - 3. We note, as an initial matter, that the license condition required that Universal's authorization

<sup>3</sup>FCC File No. 9605016 (filed April 2, 1996).

<sup>&</sup>lt;sup>1</sup>Letter from Robert L. James, Esq., counsel for Universal Cable Communications, Inc., to the Wireless Telecommunications Bureau (filed November 25, 1998) (Request).

<sup>&</sup>lt;sup>2</sup>47 C.F.R. § 101.701(c).

<sup>&</sup>lt;sup>4</sup>Request at 1-2.

be surrendered for cancellation if, after eight months from the grant of the authorization, at least fifty percent of the customers served by the system were not unaffiliated with the licensee. The eight-month period ended on March 24, 1997. On November 25, 1998, twenty months after the end of such period, Universal filed the subject extension request, which indicated that Universal was not in compliance with the 50-50 affiliation requirement. Because Universal did not comply with the 50-50 affiliation requirement or seek an extension of time on or before March 24, 1997, Universal failed to fulfill the condition and was required, by the terms of its authorization grant, to surrender its license for Station WPNB813 for cancellation as of March 25, 1997. Therefore, we find its request to extend the temporary waiver filed in November 1998 to be moot.

- 4. Accordingly, pursuant to authority contained in Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), IT IS ORDERED that the Request filed by Universal on November 25, 1998, IS DISMISSED. In addition, IT IS FURTHER ORDERED that Universal surrender its license for Station WPNB813 for cancellation within 30 days of the release of this *Order*. In the event that Universal fails to surrender such license for cancellation within 30 days of the release of this *Order*, the License and Technical Analysis Branch of the Public Safety and Private Wireless Division will be instructed TO CANCEL the license for Station WPNB813 in accordance with this *Order*.
- 5. This action is taken pursuant to delegated authority granted under the provisions of Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

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D'wana R. Terry Chief, Public Safety & Private Wireless Division Wireless Telecommunications Bureau

failed to come into compliance within the additional ninety days requested.

<sup>&</sup>lt;sup>5</sup>In addition, we note that shortly after the condition expired, Universal informed the Commission staff that it would soon be in compliance with the 50-50 affiliation requirement, and requested a 90-day extension of the condition. *See* Letter from Joseph H. Reifer, counsel for Universal, to the Licensing and Technical Analysis Branch (March 26, 1997). Such extension request still was untimely and in light of the subject Request, it appears that Universal